

OCT 13 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICKEY CALHOUN,

Plaintiff - Appellant,

v.

KING COUNTY PROSECUTING  
ATTORNEY'S OFFICE; DANIEL  
SATTERBERG; JEFFREY C.  
DERNBACH; DOES 1-10

Defendants - Appellees.

No. 08-35348

D.C. No. 2:07-cv-01758-JLR

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Western District of Washington  
James L. Robart, District Judge, Presiding

Argued and Submitted October 8, 2009  
Seattle, Washington

Before: D.W. NELSON, SILVERMAN and IKUTA, Circuit Judges.

Rickey Calhoun appeals dismissal on the pleadings of his 42 U.S.C. § 1983  
suit. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

A prosecutor is entitled to absolute immunity from damages under § 1983 “when performing the traditional functions of an advocate.” *Kalina v. Fletcher*, 522 U.S. 118, 131 (1997). The prosecuting attorney, Jeffrey Dernbach, engaged in the traditional functions of an advocate when he filed a declaration with the court to modify a sentence that exceeded the statutory maximum. He acted in his role as a lawyer, rather than as a complaining witness, when he reported to the court regarding communication with defense counsel. *See id.* at 129. Accordingly, Mr. Calhoun’s claims are barred by the doctrine of prosecutorial immunity.

**AFFIRMED.**